

Towards Maqasid al-Shari'ah Based Nursing Ethics

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ABSTRACT

Nursing ethics denotes the moral philosophy in nursing practices or a system of principles governing the conduct of nurses that are distinguished between morally good and evil or right and wrong. This system of principles adopted much from conventional moral theories in nursing practices to help nurses figure out what actions are right and wrong. Islam plays a crucial role in providing guidelines on the permissibility and acceptability of nursing practices, especially for Muslim nurses. This study conducts qualitative approaches based on library research. This article discusses the concept of nursing ethics and how it differs from Maqasid al-Shari'ah concerning decision-making processes. Both promote the benefit and prevent harm, but Maqasid al-Shari'ah is more comprehensive in guiding nurses in nursing practices. Then, several applications are presented as examples of how Maqasid al-Shari'ah can be used as a binding principle in nursing ethics.

Keywords: Nursing, Ethics, Islam, nursing practice, Maqasid al-Shari'ah.

INTRODUCTION

Nursing Ethics

In nursing, promoting health, preventing illness, restoring health and alleviating the suffering of patients, families, and communities are the goals for every nurse (1). Although nurses come from various backgrounds such as religion, race, education, and socio-economics, these factors do not avert nurses to achieve these shared goals for the benefit of the patients, and it is due to the nursing ethics that are driving their ethical behavior and decisions that have already existed. This situation also means that nurses could not practice recklessly and endanger patients, contrary to the guidelines recorded in the nursing ethics. Therefore, nursing ethics covers the entire nursing practice; a) primary patient care like vital sign monitoring, phlebotomy assessment, patient grooming, and b) consideration in decision making. Interestingly, the scope of nursing ethics

is controlled and guided by the same ethical principles. Every action of nurses should be within the framework of these ethical principles. Foundations of available ethical principles in nursing care based on the Judeo-Christian teachings influence principles of Utilitarianism and deontology (2).

Principle-based ethics provide approaches for people to meet their desired outcome. Someone is hungry for food; thus, eating denotes the approach to fulfil that basic need. Alternatively, principle-based ethics set a benchmark to evaluate the decision or action whether or not it is morally acceptable. In nursing, Utilitarianism and deontology are two commonly moral theories that always apply to inpatient care. The term Utilitarianism derived from the word utility, which denotes the benefit, usefulness, and advantages. Numerous scholarly works associate's Utilitarianism with the consequences likely to result from one's decision and action. In this instance, we note that any consequences of a decision or action that would provide a more significant benefit to the greatest number of people are deemed ethical conduct. In nursing, nurses apply this moral theory in a broader scope to maximize the most considerable benefit and least amount of harm for patient care (3). Whatever maximizes utility as a benefit or least amount of harm is to be pursued. Although this consideration may provide advantages for the patient, it opens the space for to someone justify the means according to an end. Thus, what is the position of

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whether the decision or action would violate the laws and moral norms? This inquiry, however, is a grave matter to look seriously.

Deontology theory of ethics is another moral argument that has presented an interesting ethical perspective. The term deontology derived from the Greek word which is 'duty'. This moral theory evaluates the action either is right or wrong, depending on the nature of the work itself rather than its consequences. The nature of the work itself denotes a set of moral duties that applies to everyone. According to this theory, ethical rules are universal and moral activism acts following practical reason and autonomy requirements. This approach provides general moral rules that one should follow (4). In this point, we note that the decision or action in line with overriding moral duties is considered ethical conduct. It is worth mentioning here that telling the truth is viewed as a universal law for everyone; therefore, telling lies violates the norms that can be considered immoral. However, what if someone must violate these moral duties for saving the patient's life during patient care? Would this scenario also be regarded as immoral?

No doubt everyone has to be somewhat suspicious of theories of morality, all of which are reductionist in one way or another. As presented in most of the moral theories applied in the nursing practices, the approaches tend to open a series of questions and arguments to confirm the reliability. The concern is, how far these moral theories could be applied as a foundation in moral judgment? It is very incomprehensive to explain whether it is right or wrong. Notably, the development of these moral theories was predicated on mentally conceiving, reasoning, sensory perception, and personal experience. Although it offers essential insights into patient care, in some parts, as a concept that is especially significant to nursing, it is still not enough to claim that they cover holistically.

Along with the development of modern science in Western countries, where the discipline of nursing had also flourished, the art and science of patient care are exposed to the secular view of thinking. Religious faith plays a less significant role in the modern practice of nursing up to this day. Therefore, the following discussion would present Maqasid al-Shari'ah's overview as a binding principle in nursing ethics.

Overview of Maqasid al-Shari'ah (Objective of Shari'ah)

Shari'ah or Islamic law, is the command of God revealed to the Prophet Muhammad (s. a. w.), and

it is a rule that controls the state and society. It means that state and society have to conform to the dictates of Shari'ah. Shari'ah is different from human law due to its divine origin based on divine revelations. In contrast to the conventional view, if all people agreed upon one issue, it could be the law, and if they disagree, it could not be the law. This view is the opinion of Plato. Therefore, Islamic law differs from human law. Human law is grounded from the customary rules and product of reason. It can never give a consistency of behaviour and action. The right for one group of people is not certainly so for another group; therefore, the practice of moral conduct would be not the same as one another. In the meantime, Islamic law or Shari'ah can produce perfect standard rules of conduct within all aspects of man's life. It provides the specific norms of good and evil, virtue and vice. Therefore, nursing ethics and Shari'ah are two forms that cannot be separated. If Shari'ah is the body, then the values and tenets of nursing ethics are the souls.

Muslim jurists like Ibn ʿAbd al-Salām (d. 1262) in *Qawāid al-Ahkam fi Masalih Al-Anam* (Rules of the Derivation of Laws for Reforming the People) (5), and al-Shatibi (d. 1388) in *al-Muwāfaqāt fi Usūl al Shariʿah* (The Reconciliation of the Fundamental of Islamic Law)(6) have discussed the Maqasid al-Shari'ah (objective of Shari'ah.) Al-Shatibi, for instance, stated:

"The rules of the Shari'ah have been designed to produce goods (masalih) and remove evil (mafahid), and these are certainly their ends and objects. Furthermore, the masalih are those which promote the preservation and fulfilment of human life, and the realization of all that the human nature, animal and rational demands, till one is happy in every aspect".

This statement clearly shows that the Maqasid al-Shari'ah is to secure the balanced well-being of man and fulfil man's comprehensive needs as a human being. Al-Shatibi also discussed the priorities of the Shari'ah. Apart from the argument of the objective and priorities of Shari'ah, Muslim jurists also discussed the ranks of obligation and the factors that may upgrade or downgrade the obligation of individual acts.

Preservation of Five Necessities

The entire Muslim nation agreed that the Shari'ah was laid down for the preservation of the five necessities, which are *dīn* (religion), *nafs* (life), *ʿaql* (intellect), *nasl* (progeny), and *māl* (wealth). In situations where the solution to given problems is not clearly stated in the Qur'ān or the sunnah,

then Muslim scholars are then expected to solve given issues in line with the principles of Maqasid al-Shari'ah through and within the parameters of ijtihad. Ijtihad signifies the intellectual effort of finding a solution to ethical and legal problems according to the Shari'ah principles, such as qiyas and ijma (7).

First, preservation of religion means maintaining the concept of tawhid or oneness of God. This concept forbade Muslims from believing in someone else except Him, either by belief or by action. The primary goal of the Islamic law that guarantees that human beings do not against Islam remains robust, stable and lasting peace. At the same time, Islam forbids all forms of acts that lead to shirk against God, such as fortune-telling, magic, and superstitious things. Therefore, every Muslim should be cautious while undergoing this life to not stray from the path of the Islamic faith. Thus, as Muslims, preventing everything that leads to disobedience and disbelieving by stopping the guilty and performing the punishments according to the law is compulsory.

Second, life is ranked second importance after religion. Preservation of life covers the prohibition of all forms of behaviour that could harm and endanger the lives of themselves and others. Therefore, Islam forbids killing, bullying, suicide bombings and so on except for reasons God has established in the Qur'an as qisas law, hudud and during the war. In addition, maintaining the child in the womb is also included in the above goals. Islam insists that the fetus is a soul that God had created in the best creation. So, Islam forbids abortion because it is considered a kill, but if it appears to the physician that the contents may be harmful to the mother's life, then abortion is permissible. Similarly, Islam bans all unhealthy practices that can be life-threatening and human health, such as smoking, taking drugs and drinking alcohol. It should be realized that the practice is detrimental to the health and human lives but also causes damage to God's earth.

Third, preservation of intellect is another objective of Shari'ah that has been laid down. Preservation of intellect means Islam emphasizes the sanity of intellect because it grounds the human reasoning to distinguish between right and wrong, good and bad. Islam encourages people to nourish the intellect by gaining knowledge and instilling piety (taqwa) because both are the central shield that saves people from the mire of delusion and destruction. In addition, though the function of the intellect is crucial in life, Islam forbids all elements that might damage the intelligence functions, such

as drinking alcohol and taking any intoxicating substance. Islam also forbids filling the mind with something wrong, like reading pornographic materials. The development of human capital will only be successful through filling the mind with intellectual and creative nature.

Fourth, nowadays, while Western society upholds human rights with the allowance to do a free sex, have multiple sex partners, marry same sex. So, Islam brings the moral guideline to preserve the progeny of both males and female's female. This guideline reflects the third objective of Shari'ah. Preservation of progeny means Islam forbids all elements that can damage the progeny. Thus, Islam forbids adultery as it could destroy the generation and family ties. Any actions that lead to adultery are also forbidden, such as viewing porn, exposing the aurah to non-muhrim, and solitude (khalwah).

Fifth, another concern of Shari'ah is to preserve wealth. Preservation of wealth is to ensure man manages the property wisely. The property is God's gift to every man that inhabit the universe. Property can be either beneficial or harmful to the owner, depending on how they spend and manage that property. Although they deal with their property in line with Islamic law, that property is advantageous and beneficial. In contrast, if the property is misused in a way that is banned in Islamic law, the property will cause harm and injure its owner. Islam has set the guidelines for managing a property like they must get wealth using the correct approach, they cannot use or spend on illegal things, and they must pay zakat when nisab and haul are met. According to these guidelines, a woman is prohibited from getting involved in prostitution just to bear his family expenses. A man is not allowed to spend their money in gambling to get more money. These examples are immoral in Islam because they are getting and spending wealth violates the Shari'ah's guideline.

Application of Maqasid al-Shari'ah in Nursing Ethics

After looking at both perspectives, Maqasid al-Shari'ah and nursing ethics benefit and prevent harm to people; however, the former derived from revelation and free from bias. The subsequent discussion will present several applications using Maqasid al-Shari'ah as a binding principle in nursing ethics.

- a) Highly purified insulin, commonly used in treating patients with diabetes, is always a controversial issue for its content of unclean

things (mughallāzah), particularly among Muslim patients. Indeed, feelings of guilt and doubt about whether it is permissible to administer an unclean thing to the patient will always be in nurses' hearts. Although some patients are dependent on insulin injections to preserve their health, skipping or avoiding this medication might deteriorate and harm their health. In line with the fatwa issued by the Fatwa Committee of the National Council for Islamic Religious Affairs Malaysia 6th time, which met on 10 October 1983, decided that it is permissible to inject the patient with that insulin for medical purposes because of the emergency (8). However, suppose synthetic insulin, a combination of DNA of human insulin and E.Coli bacteria as vectors that are free from pork, is available. In that case, the nurse should consult the doctor to prescribe the patient synthetic insulin.

- b) Therapeutic touch, as it denotes one of the communication skills in nursing care, the nature of touching between different gender should be looked at sensitively. Through therapeutic touch is acknowledged as a good form of skill in nursing (9), Shari'ah guideline does not approve it as the method of enhancing the communication between two different genders. Indeed, touching patients while communicate is not regarded as a necessity from the Islamic point of view. Instead of touching, other techniques could be applied to enhance the nurse-patient relationship, such as showing respect and empathy. Therefore, avoiding touching a different gender patient is preferable for preserving their dignity. Narrated by Ibn Majah, the hadith from Muhammad bin Munkadir RA said, I heard from Uaimah bint Ruqaiqah narrate: "When I came with a woman to swear allegiance to the Prophet SAW, then the Prophet SAW said, "I swear allegiance (agreement) to what you are able and able, but I do not shake hands with women." However, Muslim scholars have different opinions on the matter of shaking hands with different genders. The majority of scholars, including the Syafie sect, forbid shaking hands between men and women who are not their mahrams. However, some views allow it conditionally. It is better to get out of the matter of khilaaf is a matter of demand. It is encouraging to celebrate sects and local circumstances. For example, in Malaysia, most of them are Shafi'i. Nevertheless, if in certain circumstances

and situations allowed with the conditions set (10).

- c) Do Not Resuscitate (DNR) order may reflect the doctor's plan for the patient or patient's preference to die naturally rather than having any extensive lifesaving intervention in the case of cardiac or respiratory arrest (11). In the event of a family member's request for resuscitating the patient, but a DNR order has been prescribed, nurses may conflict to either fulfil the family members' wishes or follow the DNR order. The former is in line with the nurse's duty to respect the wish of the patient and their surrogate's wishes for one of the nursing responsibilities, while the latter represents abiding by the doctor's plan. Using the principle of "certainty cannot prevail doubt" (al-yaqīn lā yazūl bi al-shakk), a DNR order is legally valid if the physician believes that CPR would not yield any benefit to the patient. Therefore, following the doctor's plan must be prioritized. Shaykh' Abd al-'Azeez ibn 'Abd-Allaah ibn Baaz and Shaykh' Abd al-Razzaq 'Afeefi issuing a fatwa in Fataawa al-Lajnah al-Daa'imah in the year 1986, stated: "if reviving the heart and lungs is of no benefit and not appropriate because of a certain situation, according to the opinion of three trustworthy specialist doctors, then there is no need to use resuscitation equipment, and no attention should be paid to the opinions of the patient's next of kin concerning the use of resuscitation equipment or otherwise because this is not their specialty" (12).
- d) The moral concern of pro-choice related to abortion begins with discussing the beginning of life of the growing fetus or when life began—pro-choice views the beginning of life when the child has been delivered. Thus, the fetus, which has not yet been born, is considered not a living organism or a human being. Thus, a killing fetus does not have any moral stance. Therefore, any form of terminating the fetus is not morally wrong (13). In Islam, the preservation of life must be based on revelation. In chapter 5, verse 32 of the Qur'an states that: "On that account: We ordained for the Children of Israel that if any one slew a person unless it is for murder or for spreading mischief in the land it would be as if he slew the whole people: and if anyone saved a life it would be as if he saved the life of the whole people". In this verse, the sanctity of life is confirmed, whereby all forms of life taking

are prohibited, including abortion. The only acceptable reason to abort the foetus is if the pregnancy would threaten the mother's health and life after seeking an opinion from a trustworthy Muslim physician (14). Likewise, the Fatwa Committee of the National Council for Muslim Affairs of Malaysia, presiding time to 90 on 1 March 2010, also agreed and decided a few matters connected to abortion. For couples who are legally married:

- i. Abortion between the ages of one to 40 days is discouraged if it is not harmful to the mother, and the procedure is required to obtain the consent of both husband and wife.
- ii. Abortion before the age of 120 days is granted if the foetus is deformed and diseased that can threaten the life of the female parent.
- iii. Abortion for 120 days or more is not allowed except for abortion to save the mother's life due to severe disability (15).
- iv. Advising, counselling, and educating patients are part of nursing roles in inpatient care. In most situations, patients perceive an illness as their enemy. Demotivation and depression are the results that would be suffered among patients while this enemy could not be defeated. As Muslim nurses, educating patients to perceive an illness as a test and a chance for getting rid of their sins is an excellent coping mechanism. The patient should be taught how to put a good motive dealing with an illness so that the sadness and distress during this process can be put away, as both can be assumed as a small scale of harm that should be prevented well. Another way to educate patients to correct their motives is to explain that the natural healer is God, not physicians or nurses. Their belief system in God possibly might be harmful if they trust more in individuals and materials than God, such as they believe that drug is the only thing have a power of healing. In chapter 26 of the Qur'an, verse 80, God clearly says: "And when I am ill, it is He Who cures me". Educating patient by this approach denotes the preservation of religion or aqidah of the patients.

CONCLUSION

Up to this notion, we note that the Maqasid al-Shari'ah is comprehensive and encompasses moral principles, which are directly applicable to modern practices. In the aim of Shari'ah, any conduct that is deemed ethical or permissible must fulfil its five

purposes: preservation of religion, preservation of health, preservation of progeny, preservation of intellect, and preservation of wealth. Any conduct of nursing practices must fulfil one of the purposes of being considered ethical. If any conduct violates any of the five purposes in successive order of importance, it is deemed unethical. Again, we emphasize that nursing ethics and Maqasid al-Shari'ah two elements that cannot be separated, whereby the latter form must be a binding principle to guide nurses. For the future direction of this study, it is highly recommended to conduct a workshop, webinar and training for a Muslim staff nurse to disseminate this knowledge and applying in nursing practices.

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